

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	S14 11 Cr. 1091 (VM)
	:	
- against -	:	NOTICE OF MOTION IN
	:	SUPPORT OF DEFENDANT
PETER LESNIEWSKI,	:	PETER LESNIEWSKI'S
	:	MOTION FOR NEW TRIAL OR,
	:	IN THE ALTERNATIVE, FOR
Defendant.	:	<u>RESENTENCING</u>
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PLEASE TAKE NOTICE, that upon the annexed Declaration of Thomas Anthony Durkin, the accompanying Memorandum of Law, the exhibits thereto, and all prior papers and proceedings herein, the defendant, PETER J. LESNIEWSKI, will move before the Honorable Victor Marrero, United States District Judge for the Southern District of New York, at the United States Courthouse located at 500 Pearl Street, New York, New York, at a time and date to be set by the Court, or as soon thereafter as counsel may be heard, for the following:

- (a) an Order of a new trial, pursuant to Fed. R. Crim. P. 33, the Due Process Clause of the Fifth Amendment, and the effective assistance of counsel guarantee of the Sixth Amendment for a new trial based on newly discovered evidence that squarely contradicts a fundamental premise of the government's case at trial; or,
- (b) in the alternative, if the Court declines to grant a new trial, Dr. Lesniewski moves for resentencing under 28 U.S.C. § 2255, because the initial sentencing was based on false information concerning the loss attributable to his alleged offenses and thus violated his Fifth Amendment right to due process.

Dated October 2, 2015

/s/ THOMAS ANTHONY DURKIN
DURKIN ROBERTS & GROHMAN
2446 N. Clark Street
Chicago, Illinois 60614
(312) 981-0123
tdurkin@durkinroberts.com

/s/ JOSHUA L. DRATEL
JOSHUA L. DRATEL, P.C.
29 Broadway, Suite 1412
New York, New York 10006
(212) 732-0707
jdratel@joshuadratel.com

Attorneys for Defendant Peter Lesniewski

-Of Counsel-

John D. Cline
Law Office of John D. Cline
235 Montgomery St., Suite 1070
San Francisco, CA 94104
(415) 662-2260
cline@johndclinelaw.com